

American Friends Service Committee's
Michigan Criminal Justice Program
Testimony regarding HB 4138
Natalie Holbrook, Program Director
Ph: 734.330.0555
Email: nholbrook@afsc.org

I am testifying today in support of presumptive parole. We need a statute that provides a presumption of parole for people who score high probability on the objective and statutorily required parole guidelines.

The American Friends Service Committee's Michigan Criminal Justice Program advocates for and with people in Michigan's prisons on all sorts of issues related to conditions of confinement and access to freedom.

For years, we have directly addressed the problem of people who are high probability of parole being continued toward their maximums. We have had so many individual complaints about lack of clarity regarding what a person needs to do to get out of prison at his or her earliest release date that we developed an entire parole preparation workshop for folks in prison and their loved ones to help people navigate the arduous and often confusing process of "earning" a parole.

Often, I let family members and prisoners alike know that we will review as many documents related to a person's case as possible and then try to make a guess at what in the world is fueling the "substantial and compelling reasons for departure from the guidelines" on an individual's continuance papers. But our guess is just that a guess. The objective criteria that is supposed to guide the decision making processes of the board—the parole guidelines score sheet—are not enforceable criteria. The Board's discretion is broad and unchecked and reliant on human notions of whether or not a person will reoffend.

I will briefly cover three cases with you all today in order to illuminate the power of the board's discretion. And to also demonstrate the clear subjectivity present so often in the current use of substantial and compelling reasons for departure from the guidelines.

Ms. Chambers¹ was serving a 2 year minimum to 15 year maximum for Homicide-Manslaughter-Statutory Short Form. She called two of her relatives to her residence after a day of drinking with her boyfriend. The two men beat her boyfriend badly. Ms. Chambers was drunk at the time. She claims she passed out and so did her boyfriend. She claims in her PSI that she woke up at some point and asked him if he needed to go to the hospital. She claims he said no. Then she fell back to sleep. When she woke

¹ MDOC #823834

again it had been, according to the PSI, approximately 19 hours from the time of the beating and her boyfriend was unresponsive. He was then rushed to the hospital and died from his injuries later.

Her earliest release date was November 4, 2013. At the time of her interview in the spring of 2013 she was high probability for parole (+15). She was first denied parole in June of 2013 because the voting Board members thought she could benefit from the Meridians program. The substantial and compelling reasons for departure from the guidelines were: "The P has not taken the necessary programs that are designed to help P gain the tools she needs to help reduce her risk. Deviation from the guideline is warranted."

After learning of her denial, AFSC contacted Warden Warren and Chair Combs about her case. The Board wanted her to complete the Meridians program. Chair Combs also told AFSC that Ms. Chambers did not require RSAT as far as the Board was concerned

Ms. Chambers completed the Meridians program in August of 2013 (after the parole interview, but still before her ERD). Then she went on to complete the SHAR program and Restoring Broken People. She then voluntarily signed up for the Residential Substance Abuse Treatment Program (RSAT) with the understanding that it would not be used against her in future parole determinations.

After learning that she completed the Meridians program, as recommended by the Board, Chair Combs scheduled her for an early reconsideration in April of 2014. At that interview, Ms. Chambers was again denied parole in order to complete RSAT.

AFSC brought this case to the attention of 2 parole board chairs and Director Heyns. We asked the Board reconsider the decision to have her complete RSAT prior to being released when it was a program that she entered into voluntarily with the understanding that it would not be held against her when she was reconsidered for parole, especially when there is a waiting list of people who are recommended to successfully complete RSAT for parole? According to her RGC recommendations, her parole guidelines score, and her successful completion of those additional programs the Parole Board required of her when she was denied parole the first time around, it did not seem like a great use of our resources to require her to complete a program that was not recommended or required to complete, especially when there are so many others who are waiting to get into that program.

Ms. Chambers was finally paroled on February 24, 2015.

Mr. Schlappi² is currently serving a sentence of 1.5 to 7.5 years on charges of operating an off road vehicle while intoxicated. At the time of his first parole consideration (August 6, 2014) Mr. Schlappi screened "high probability" for parole, with a parole guidelines score of +7. Despite the high probability for parole classification, he was denied parole for 18 months. The "compelling and substantial reasons for departure from the guideline" were: "P lacked insight into his actions and sa [substance abuse] issues. P was unable to provide a viable parole plan to address his sa addictions nor did he demonstrate a desire to make a sincere change."

Since he was denied parole, Mr. Schlappi wrote to AFSC, including a copy of a parole plan that he has subsequently provided to the Parole Board. In his letter to our office, Mr. Schlappi was concerned that he presented poorly at the interview because he is a shy person and throughout the interview felt an increasing amount of anxiety that made him more uncomfortable as the interview went on. After reviewing Mr. Schlappi's parole plan it seems clear that he has a very good parole plan, even if he is unable to articulate this plan well during a parole interview. Further, it seems like he takes full responsibility for his actions ("There is no one to blame but me," he writes), while also recognizing the need to avoid the environmental factors and people that encourage poor choices and criminal behavior. Furthermore, Mr. Schlappi wrote an extensive and detailed parole plan that included substance abuse support groups and meetings beginning immediately after his release.

AFSC wrote to the parole board explaining that Mr. Schlappi has done quite a bit to address the concerns expressed in his parole denial notice. We attached the parole support plan that Mr. Schlappi wrote and asked the board to consider him before his reconsideration date of February 4, 2016.

Mr. Ronnie Webb³ is currently serving 25 year minimum to 50 year maximum at Cooper Street Facility for one count of second degree murder and two counts felony firearms. His Earliest Release Date was August 11, 2013. He was charged with the murders of his father and his father's girlfriend. At the time of sentencing, it was apparent that Ronnie's father was physically and emotionally abusive towards his family. Both his PSI and Psychological evaluation reveal that Ronnie was regularly hit for minor mistakes, his father broke his hand and his ribs when Ronnie was only 13 and 16 years respectively, and his father had once pulled out a gun and threatened to kill his mother during an argument.

After his parents' divorce, Ronnie started counseling, and in spite of the abuse, counselors recommended that he live with his father. His father continued to abuse him and threatened to commit suicide if Ronnie went to live with his mother. On the night

² MDOC #631588

³ Ronnie Webb, MDOC #224989,

before the murders, Ronnie stole a shotgun with the intent to kill himself, but while contemplating his suicide, his father and his father's girlfriend returned home. His father started yelling and Ronnie shot them both. All of this information was provided to the jury and judge during his trial, and for these reasons, Ronnie was found not guilty by reason of insanity for the murder of his father and guilty but mentally ill for the murder of his father's girlfriend.

During his incarceration, Ronnie completed his GED, maintained a job in maintenance, completed all of his Reception and Guidance (RCG) recommendations, and helped facilitate a parole workshop in his unit. He has had two parole interviews since reaching his ERD. At the time of his first interview, his parole guidelines score was +6 (high probability).

He received his first continuance in May 2013. The term of denial was 12 months and the substantial and compelling reasons for the decision was "P is serving an assaultive sentence, has not had the benefit of programming which is designed to allow him greater insight". Ronnie went on to complete Violence Prevention Program (VPP) (with an excellent report), 2nd phase substance abuse, and enrolled in Chance for Life (CFL). By the time of his reconsideration date, his parole guidelines score had increased to an +11 and his COMPAS indicated he has low violence and recidivism scores.

Despite this, at his reconsideration date, he was given another continuance, this time the term of denial was extended to 24 months. The substantial and compelling reasons for denial states "P failed to take responsibility for his violent actions and minimized his behavior." However, this is contradictory to the case summary report of the interview, which asserts, "Regarding the crime, it is our belief: prisoner accepts responsibility". Additionally, the PB interviewer insists in the case summary that "this appears to be two counts of 1st degree murder" regardless of the fact that Ronnie was only found guilty of 2nd degree murder (GBMI) and, even though prosecution pushed for a maximum sentence, was given a term of 25-50 years when convicted in front of a jury.

These three cases are representative of hundreds of high probability folks who are left with very little understanding of what more they could do to earn a parole since the substantial and compelling reasons are mostly generic in nature and illustrative of the subjective discretion that is exercised in reviewing these cases. This discretion is then left unchecked. Furthermore, it often seems as if and sometimes is even proven like in Mr. Webb's case that the board member is re-sentencing a person toward the maximum based on his or her gut feeling.

It should be noted that an individual earns his or her way into the high probability classification. And that if they have stayed out of trouble and done what is expected of them-- which is necessary to get that classification--then it would only make sense to reward them for that behavior. When people stay out of trouble and do everything that is expected of them only to be denied parole, that is when we see the frustration and

the despair that leads people to think that it doesn't matter if they behave or not because they are not going to get paroled either way. Furthermore, it does no one any good to piecemeal together rehabilitative programs at the end of a person's sentence in order to feel better about releasing the person. Rehabilitative programs should begin the moment a person walks in the door and the inability to get into the program because it was never recommended to begin with or was recommended at the last moment should never be used as a mitigating circumstance for denying a parole to someone who is high probability.

Again, the AFSC supports a bill that will lead to the release of people who are classified as high probability of parole at their minimum sentences.